

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Mar 31, 2023**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NATHAN M. DEE,

Defendants.

No. 4:23-CR-06008-MKD

PROTECTIVE ORDER

**ECF No. 14**

Before the Court is the parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 14. The parties move the Court to issue a protective order to establish forensic review procedures under 18 U.S.C. § 3509(m). The Court has reviewed the stipulation, the record, and is fully informed.

Accordingly, **IT IS ORDERED:**

1. The Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, **ECF No. 14**, is **GRANTED**.

1           2.     Defendant is charged with federal child exploitation offenses. ECF  
2 No. 1. The discovery in this case includes child contraband images and video files.  
3 ECF No. 14 at 2. Under 18 U.S.C. § 3509(m), the Court is required to deny  
4 defense requests to copy, photograph, duplicate, or otherwise reproduce material  
5 constituting child pornography if the United States makes the material reasonably  
6 available to Defendant and provides an ample opportunity for the defense to  
7 examine it at a government facility.

8           3.     In order to comply with 18 U.S.C. § 3509(m), and to allow Defendant  
9 the greatest opportunity to prepare an effective defense in preparation for trial in  
10 this matter, the United States will make a true forensic, bit-by-bit E01 image of  
11 devices and media containing alleged child pornography contraband at issue in the  
12 above-referenced case. The United States will make that forensic image  
13 reasonably available to Defendant and provide ample opportunity for the defense  
14 team to examine them at a government facility in Spokane, Washington. The  
15 parties may readdress the Court if there is a need for additional or after-hours  
16 access during the course of litigation in the event trial or motion hearings require  
17 additional forensic review.

18           4.     The defense forensic examination will be conducted in an interview  
19 room monitored by closed-circuit television (“CC-TV”), without audio feed.  
20 While the TV with non-audio feed will ensure the integrity of FBI space and

1 security of its occupants, the video feed is not of sufficient detail or at an angle that  
2 would reveal defense strategy. The United States and its agents expressly agree  
3 that no attempt will be made to record any audio from the workstation and that no  
4 attempt will be made to observe the defense team's work product or computer  
5 monitor screen at any time. The defense expert may review the feed to ensure that  
6 defense strategy is not being compromised at any time while conducting the  
7 forensic review.

8         5. The defense team shall not make,<sup>1</sup> nor permit to be made, any copies  
9 of the alleged child pornography contraband pursuant to this Protective Order and  
10 shall not remove any contraband images from the government facility. The defense  
11 expert will be allowed to copy any file that is not contraband and compile a report  
12 (without contraband images/videos) documenting the examination on removable  
13 media at the discretion of the defense expert.

14         6. The defense expert and investigator will leave at the government  
15 facility any equipment, including hard drives, which contain child pornography  
16 contraband that is identified during forensic evaluation.

17         7. For the purpose of trial, the United States will make available a digital  
18 copy of any United States trial exhibit that contains contraband, which will be kept  
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20 <sup>1</sup> For purposes of this Protective Order, the term "defense team" refers solely to Defendant's counsel of record ("defense counsel"), Defendant's designated expert ("defense expert"), and a defense investigator.

1 in the custody and control of the case agent. Upon reasonable notice by the  
2 defense, the case agent will also maintain for trial digital copies of any proposed  
3 defense exhibit that contains contraband. If the defense team intends to offer,  
4 publish, or otherwise utilize any prosecution or defense exhibit contained on the  
5 digital copy maintained by the case agent during trial, the case agent shall assist the  
6 defense team in publishing or utilizing the exhibit that contains contraband upon  
7 reasonable notification by the defense team.

8 8. This protective order shall apply to any attorneys who subsequently  
9 become counsel of record, along with their defense teams, without the need to  
10 renew or alter it.

11 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
12 Order and provide copies to counsel.

13 DATED March 31, 2023.

14 s/Mary K. Dimke  
15 MARY K. DIMKE  
16 UNITED STATES DISTRICT JUDGE  
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